Testimony of Jack Perry

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Good morning Mr. Chairman and Members of the Committee, I am Jack Perry President and CEO of Decisionmark Corp. I want to thank Chairman Barton and Chairman Upton for extending this invitation to testify.

Decisionmark is a media technology company based in Cedar Rapids, Iowa. Decisionmark is a leader in providing software and data solutions to television and radio broadcasters and consumers. We have been at the forefront of accurately testing the reach of local broadcast signals for the satellite industry in order for satellite providers and consumers to be in compliance with the Satellite Home Viewer Act (SHVA) and its updated versions.

We hold an ever-growing number of technology patents and our patented Geneva technology is what enables household-level predictions of broadcast signals. Also, our Coronado Data Warehouse, the industry standard for broadcast signal area and programming data, have served as the basis for our consumer and broadcaster solutions, including TitanTV.com, CheckHD.com, and ProximityTV.

When I last testified before you in February of 1999, I described our Geneva technology, which is used by all of the major networks, their affiliates and Satellite broadcasters to measure broadcast signal strength to insure compliance with SHIVERA. To date, we have processed more than 50 million waiver requests using getawaiver.com. Today I want to talk to you about a new technology we call Air-To-Web Broadcast Replication (AWBR).

AWBR, we believe, is the solution to a problem that has long faced local broadcasters: how to maintain the ability to serve the local public over the Internet. The fundamental question has been whether or not the geographic exclusivity of markets, the cornerstone of the American system of free-over-the-air broadcast television can be replicated for Internet broadcasting. The answer is, yes.

Using AWBR technology, a local broadcaster can deliver local content in real time over the internet to a wired or wireless device with the same copyright protections currently enjoyed by broadcast, cable and satellite delivery. Bottom line: the localization of the Internet.

How does AWBR work? It works by meeting the four requirements necessary for any system to successfully stream local content 24/7 and be in compliance with a local broadcasters copyright: AWBR determines what channels/stations a viewer is entitled to receive by using proven local signal area prediction to determine which signals are received for each individual subscriber.

AWBR will make accurate eligibility determinations in real time using signal strength technology and a broadcaster-verified data warehouse. AWBR will communicate subscriber activity to each of the nation's local broadcasters giving them unprecedented, real time ratings data. This reporting will more accurately measure ratings of minority viewers than has been the case with traditional Nielsen reporting. AWBR will also ensure that the underlying signal data is accurate.

The benefits to consumers and broadcasters are many. Local broadcasters will be able to bring their programming to the Internet, which will enhance interactivity with their audience. Consumers will have the benefit of gaining access to their local stations in real time over the Web or via wireless. The net result is more viewers for local programming and more choices for consumers.

Finally, AWBR also presents the opportunity of delivering local broadcast television through non-traditional means. Usage of AWBR will help foster competition for local television, allowing consumers to have a new choice instead of being forced to rely on over-the-air, cable or satellite service.

As you move forward with legislation addressing the conversion to digital television and rewriting the '96 Telecommunication Act, remember that technology does not stand still. AWBR is new today with endless possibilities and just the beginning of innovations to come.

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Introduction

For some time now it has been technologically feasible to provide television and radio content to consumers in real time via the Internet. According to a study by Leichtman Research Group, about 60% of households in the US subscribe to an online service, and in the past two years broadband providers have added 12.5 million net new subscribers.[1] The same study also indicates that over 30 million U.S. households subscribe to cable or DSL broadband services.[2]

Not only do Americans have unprecedented access to broadband services, they are listening to and viewing content streamed over the Internet in greater numbers than ever before. According to ratings information assembled by Arbitron Inc. and comScore Media Metrix, 4.1 million people a week listen to three major online radio networks.[3] Furthermore, broadband users accessed an average of 15.4 video streams per month during the first half of 2004, up 42.6% over 2003.[4] The audience size and the potential opportunity for Internet streaming are both far too large for local broadcasters to ignore.

With this opportunity comes a challenge—how to maintain compliance with copyright regulations within a geographically boundless medium. When granted a license, broadcasters were given the right to transmit their signal to a specific geographic area and called upon to restrict their transmission to this area. Advances in technology have moved the broadcast industry closer to using the Internet as yet another medium to reach their audience. Unfortunately, there are vexing legal issues that have stymied the development of the Internet as a medium for delivery of broadcast television and radio.

Fortunately, Air-to-Web Broadcast Replication (AWBR) technology has now surfaced with a solution to the issue of broadcasters streaming via the Internet. AWBR has been proven in numerous pilot projects with broadcasters and will work in parallel with the intent of the original free American broadcast system. AWBR will help broadcasters maintain the ability to serve the local public—via the Internet.

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[1] "Broadband Internet Access and Services to the Home 2004", Leichtman Reseach, © 2004, www.leichtmanresearch.com

2 "Broadband Booms in 2004," Sky Report E-news, March 7, 2005, www.skyreport.com

3 "4.1 Million People a Week Listen to Three Major Online Radio Networks According to comScore Arbitron Online Radio Ratings," Press release, International Webcasters Association, December 6, 2004. http://www.webcasters.org/news/20041206.htm

[4] "AccuStream Report: User Consumption of Broadband Video Streams Up 42% in First Half '04" Press release, AccuStream iMedia Research, http://www.accustreamresearch.com/news/aug17-04.html

The problem: Broadcast is local; the Internet is global

Free over-the-air American television is based on the network-affiliate distribution system. Networks supply general interest programming and local affiliates supplement with local interest and syndicated programming. A mix of local and national advertising sales funds this system and the territorial exclusivity granted to the local affiliates is crucial to this model.

Prior to cable TV, territorial exclusivity was enforced via transmitter licensing. With the advent of new delivery mechanisms for television, Congress has given cable and satellite TV services permission to retransmit broadcast television channels under a compulsory license to a specific geographic area therefore replicating broadcast television signal areas. Radio has not been subject to such legislation as yet, but the advent of digital satellite radio services has raised issues for local radio stations in protecting their licensed signal areas.

The question remains of whether the geographic exclusivity of markets, that is fundamental to the American system of free-over-the-air broadcast television and radio, can be replicated for Internet broadcasting. Traditionally, the Internet has been a global entity, providing content to all regardless of location. What is needed is a way to provide broadcasts, via the Internet, to replicate what consumers could receive with an antenna - the standard for terrestrial, cable and satellite delivery.

The Solution: Air-to-Web Broadcast Replication

Air-to-Web Broadcast Replication (AWBR) is the solution to the problem of delivering television and radio content via the Internet. AWBR can provide the technology and data that will allow television and radio content to be delivered over the Internet with the same copyright protections currently enjoyed by broadcast, cable and satellite delivery. The AWBR solution potentially will provide the means to authorize, monitor and report on all television and radio content streamed over the Internet.

The AWBR solution offers:

- Accurate signal area prediction technology
- Broadcaster-verified data warehouse
- Verification process
- Ability to help broadcasters control streamed content through their online programming guides

Currently, there are 2,350 television stations and 13,810 radio stations broadcasting off-air reaching 104 million households[13]. Every household is in control of what they watch and listen to off-air by simply putting up an antenna. A broadcaster's signal reach is also their copyright reach, i.e., only those that can get it with an antenna can

[13] Decisionmark's proprietary broadcast data warehouse as of March 2005.

watch/listen to it with an antenna. By installing an antenna, the household automatically places itself within a broadcaster's copyright area, or it "activates" its ability to receive the broadcaster's signal. With AWBR, streamed TV and radio on the Internet can be almost as straightforward—AWBR is akin to tuning a web-enabled device so that it receives the same programming that an over-the-air reception device would receive. AWBR, along with the appropriate verification mechanism, provides the technology and data that enables geographically-restricted Internet delivery of television and radio programming.

Implementing Air-to-Web

For any system to successfully stream local content 24/7 and be in compliance with local broadcaster's copyright, it must:

Determine what channels/stations a viewer is entitled to receive, i.e. screen for eligibility. AWBR answers this by using proven signal area prediction technology to determine which signals are received for each individual subscriber.

Make accurate eligibility determinations in real time. AWBR's combination of signal strength prediction technology and a broadcaster-verified data warehouse is the only way that eligibility can be accurately predicted in real time.

Communicate subscriber activity to each of the nation's local television affiliates and radio stations. AWBR will connect with every broadcaster so they can know exactly how many viewers or listeners are watching/listening to them via the web—while they are watching/listening. This opportunity for generating real-time ratings data is unprecedented.

Ensure that the underlying signal area data is accurate. Local broadcasters must be able to easily communicate changes in their signal area. They need to easily change and verify their coverage information so that off-air and web broadcasts are ALWAYS identical.

Benefits of Air-to-Web

The broadcast industry, artists and consumers alike stand to benefit from AWBR technology.

Broadcaster benefits

- Potentially avoid additional copyright fees
- Bring their broadcasts to the Internet
- Enhance interactivity with their audience

Artist and content owner benefits

- Promote their works visually while a listener or viewer is tuning in on the Web
- Utilize interactivity that is inherent to the Internet
- Build loyalty in local markets

Consumer benefits

- Listening and viewing devices tuned by Decisionmark
- Gain access to their favorite, free local programming online
- Allows consumers to continue to listen or watch their favorite broadcasts via the Internet

Conclusion

AWBR has solved the 'Internet is global, broadcast is local' quandary. With AWBR, broadcasters can implement the same geographical parameters for Internet streams as off-air broadcasts. This solution benefits the entire broadcast industry because it expedites the process and acceptance of local streamed media over the Internet, in real time and without copyright infringement. Local broadcasters will have access to their audience via the TV or radio and the desktop and still maintain agreements with local advertisers. Because of the potential to reach consumers who may otherwise have missed the programming, affiliates may be able to achieve better advertising rates. The major benefit to AWBR is the ability to replicate, via the web, any broadcaster's exact signal.

In addition, real-time monitoring by broadcasters for compliance will benefit both broadcasters and consumers. Consumers benefit by having more local programming available and broadcasters benefit by learning more about their viewers and in turn, being able to supply their advertisers with this information. AWBR is the only technology in existence today with the unique ability to bring local streamed media to the Internet.